

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CHRISTOPHER J. PIGHINI, as executor of
the estate of Frank G. Pighini,

Plaintiff,
-against-

MEMORANDUM & ORDER
11-CV-5416 (JS) (AKT)

ERIC PIGHINI, MATTHEW PIGHINI, and
MARION R. PIGHINI,

Defendants.

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APPEARANCES

For Plaintiff: Ralph Hummel, Esq.
 137 Woodbury Road
 Woodbury, NY 11797

For Defendants: No appearances.

SEYBERT, District Judge:

Pending before the Court is Magistrate Judge A. Kathleen Tomlinson's Report and Recommendation ("R&R"), issued on January 25, 2013. For the following reasons, the Court ADOPTS this R&R in its entirety.

BACKGROUND

Plaintiff Christopher J. Pighini, as Executor of the Estate of Frank G. Pighini, commenced this action on November 4, 2011, against Eric Pighini, Matthew Pighini, and Marion R. Pighini ("Defendants"), seeking a declaratory judgment that the Estate of Frank G. Pighini is the lawful beneficiary of certain life insurance proceeds deposited with the Clerk of the Court by the Prudential Insurance Company of America in a previous

interpleader action (No. 07-CV-5122). Defendants did not answer the Complaint or otherwise appear in this action.

On February 24, 2012, Plaintiff requested a certificate of default (Docket Entry 6), which was entered by the Clerk of the Court on March 15, 2012 (Docket Entry 12). On March 23, 2012, Plaintiff moved for default judgment (Docket Entry 13), and on March 27, 2012, the Court referred Plaintiff's motion to Judge Tomlinson for an R&R (Docket Entry 14.)

Judge Tomlinson issued her R&R on January 25, 2013, recommending that: (1) Plaintiff's motion for default judgment be granted; (2) a declaratory judgment be entered declaring the Estate of Frank Pighini to be the lawful beneficiary of the life insurance proceeds; and (3) the Clerk of the Court be directed to pay to Plaintiff, as Executor of the Estate, the proceeds.

No party has objected to any portion of Judge Tomlinson's R&R.

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d

606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Here, no party has objected to Judge Tomlinson's R&R, and the Court finds it to be correct, comprehensive, well-reasoned and free of any clear error. Accordingly, the Court ADOPTS Judge Tomlinson's R&R in its entirety.

CONCLUSION

Judge Tomlinson's R&R is ADOPTED in its entirety, and Plaintiff's motion for default judgment is GRANTED.

The Clerk of the Court is directed to:

(1) Enter judgment declaring the Estate of Frank Pighini to be the lawful beneficiary of the life insurance proceeds deposited with the Clerk of the Court by the Prudential Insurance Company of America in case number 07-CV-5122;

(2) Release to Plaintiff, as Executor of the Estate of Frank Pighini, the \$52,586.29 in proceeds being held by the Clerk of the Court pursuant to a Consent Order entered in case number 07-CV-5122; and

(3) Mark this matter CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: February 13, 2012
Central Islip, NY